

MINUTES OF MEETING
ALAMEDA COUNTY PLANNING COMMISSION
FEBRUARY 22, 2005
(APPROVED MARCH 7, 2005)

REGULAR MEETING: 1:30 p.m.

MEMBERS PRESENT: Commissioners Michael Badner; Compton Gault; Richard Hancocks; Frank Imhof, Vice Chair; Mike Jacob, Chair; Glenn Kirby; and Edith Looney.

OTHERS PRESENT: Chris Bazar, Planning Director, Steven Buckley, Assistant Planning Director; Sandra Rivera, Assistant Planning Director; Jana Beatty, Senior Planner; Bruce Jensen, Senior Planner; Louis Andrade, Planner; Lisa Asche, Planner; Rodrigo Orduna, Planner; Sonia Urzua, Planner; Michelle Starett, HCD; Nilma Singh, Recording Secretary.

There were approximately twenty people in the audience.

CALL TO ORDER: The Chair called the meeting to order at 1:30 p.m.

ANNOUNCEMENTS BY THE CHAIR: The Chair announced that the order of the Set Matters will be reversed: Review of PD Districts will be heard first followed by the Condominium Conversion Guidelines.

The green pens which reads Planning Commission was from the dedication ceremony last Friday. Supervisor Steele honored the ceremony for the dedication of art.

OPEN FORUM: Open forum is provided for any members of the public wishing to speak on an item not listed on the agenda. Each speaker is limited to three (3) minutes. No one requested to be heard under open forum.

CONSENT CALENDAR:

1. **APPROVAL OF PLANNING COMMISSION MINUTES** - December 20, 2004, January 3, January 18 and February 7, 2005.

December 20th Minutes – The Chair made minor corrections (Pages 1, 15 and 16). Commissioner Gault made the motion to approve the Minutes as amended and Commissioner Kirby seconded. Motion carried 4/0. Commissioners Badner and Looney abstained. Commissioner Imhof was excused.

January 3rd Minutes – Commissioner Kirby made the motion to approve the Minutes as submitted and Commissioner Gault seconded. Motion carried 4/0. Commissioners Badner and Looney abstained, and Commissioner Imhof was excused.

January 18th Minutes – The Chair pointed out that Commissioner Badner had not been sworn in and a minor correction on Page 5; Commissioner Looney requested that the fourth paragraph on Page 4 be deleted, and Commissioner Gault made the following corrections to the Commission Announcements: The Northern District of CA Planning Commissioners Association meeting will be held in Kanakti and the Annual California Planning Commissioners Conference will be held in San Diego on October 28-29, 2005. Commissioner Gault made a motion to approve the January 18th Minutes with the above corrections and Commissioner Kirby seconded. Motion carried 5/0. Commissioner Imhof was excused and Commissioner Badner abstained.

February 7th Minutes - Commissioner Kirby made a motion to approve the minutes as submitted and Commissioner Gault seconded. Motion carried 6/0. Commissioner Imhof was excused.

2. **SURFACE MINING PERMITS AND RECLAMATION PLANS SMP-38, SMP-39 and SMP-40, RHODES & JAMIESON** – Petition to make three parcels in Eastern Alameda County available for sand and gravel extraction operations, two of the parcels, SMP-38 and SMP-39 located south of Livermore Airport, SMP-38 close to the Livermore Golf Course, and SMP-39 close to Jack London Boulevard, Livermore area of unincorporated Alameda County, bearing Assessor’s Parcel Number: 904-0001-007-26, 99B-3661-001-04 and 99-200-002-00. (Continued from January 3, 2005; to be continued without discussion to March 21, 2005).
3. **MODIFIED ZONING UNIT ZU-2180; and CONDITIONAL USE PERMIT, C-8361; and MODIFIED TENTATIVE TRACT MAP, TR-7214 - HAYWARD EAST AVENUE, LLC.** - Petition to find modification to a Planned Unit Development to be minor; to allow the requested modification by granting of a Conditional Use Permit, and modification of a Tentative Tract Map (TR-7187) for 12 lots containing 1.32 acres, in a PD (Planned Development, 2108th Zoning Unit) District, located at 1672-1696 East Avenue, north side, approximately 0.272 miles east of E Street, Hayward area of unincorporated Alameda County, bearing Assessor’s Parcel Number: 0426-0100-015-00. (To be continued to March 7, 2005).
4. **2193rd ZONING UNIT AND TENTATIVE TRACT MAP, TR-7530, ROBERTS/UTAL** –Petition to reclassify a site comprising approximately 8.25 acres from the R-1-SU-RV and R-1-B-E-SU-RV District to the PD (Planned Development) District, to allow subdivision of three parcels into 38 lots for development of single-family homes, located at 4524 Crow Canyon Place, approximately 500 feet south of Crow Canyon Road, Castro Valley area of unincorporated Alameda County, bearing Assessor’s Parcel Numbers: 084C-1068-001, 084C-1068-007, and 084C-1068-008. (Continued from September 7, October 18, November 1 and 15, and December 20, 2004; to be continued without discussion to March 7, 2005).

5. **TENTATIVE PARCEL MAP, PM-8381 – CORBETT / LAMB SURVEYING, INC.,** - Petition to subdivide one parcel into two lots containing approximately 235.50 acres, in an “A” (Agricultural) District, located at 10366 South Flynn Road, north side, approximately 0.51 miles northeast of Patterson Pass Road, Livermore area of unincorporated Alameda County, bearing Assessor’s Parcel Number: 099A-1760-001-00.
(To be continued without discussion to March 7, 2005).

Commissioner Badner made the motion to approve the remainder of the Consent Calendar as recommended by staff. Commissioner Gault seconded, and the motion carried 5/0/1. Commissioner Imhof was excused.

Commissioner Imhof arrived a few minutes late.

REGULAR CALENDAR:

1. **TENTATIVE TRACT MAP, TR-7467 – ROMBOUGH / WRIGHT** – Petition to subdivide one parcel of approximately 3.52 acres (153,331 square feet) into 16 parcels intended for single-family dwellings, one lot with an existing single-family residence and 15 lots for new single-family residences, in an R-1 (Single-Family Residence) District, located at 23096 Mansfield Avenue, south side, approximately 670 feet south of Kelly Street, Fairview area of unincorporated Alameda County, bearing Assessor’s Parcel Number: 0416-0200-005-00.
(Continued from November 1, 2004 and January 18, 2005).

Ms. Beatty presented the staff report noting proposed modifications to Condition 16 for a Joint Maintenance Agreement and Castro Valley Sanitary District be replaced by Oro Loma Sanitary District in Condition 42. She introduced Joan Lamphier, Lamphier-Gregory, preparer of the environmental report.

Ms. Lamphier discussed the two areas of impacts identified in the DEIR, biological resources and traffic issues and the recommended mitigations. Some of the concerns raised were density, storm water, drainage and whether the swale meets the County definition of a creek. All impacts have been lowered to less than significant. Commissioner Badner requested further clarification on drainage and if the related requirement would be reflected in the CC&R.

Public testimony was called for. Jon Rombough, Applicant, stated that the project has been reduced to 16 houses and he has had two neighborhood meetings. Some of the concerns were speeding, landscape screening for lots 1-6 and placement of garbage cans. The Chair asked for the status of the aluminum utility structure that would remain on the lot. Mr. Rombough said it was a new permitted structure.

Alex Wolpe, 23090 Mansfield Avenue, representing Mansfield Homeowners Association, discussed and submitted his written testimony. Their concerns included density, as the definition of the surrounding neighborhood in the EIR was not in accordance with the Fairview Specific

Plan, the size of the proposed units, traffic especially westbound on Kelly at Mansfield, noise during and after construction, filtration of water and endangered species. As a compromise, Mr. Wolpe suggested a sound wall and lesser density on the western side.

Commissioner Looney requested a density map. Staff referred to a map in the EIR, and presented it to the Commission and public.

Public testimony was closed. Commissioner Kirby pointed out that the Applicant has opted for a Tract Map instead of a PD, and therefore the project was more in line with community expectations and conformed to existing zoning; the southeast density is consistent with the proposed project and other properties were similarly zoned and could be developed in the future. He asked if sidewalk improvements were being proposed. Ms. Beatty replied that graphics indicate sidewalks on one side of the street, ending by Lot 1 at the parking area.

Commissioner Gault made the motion to approve the application per staff recommendation and modifications; Commissioner Imhof seconded. A discussion followed regarding the modification to Condition 16(f). The Chair noted that 16(f) does not reflect that the homeowners association would maintain the areas within the riparian corridor and the swales and, as such, for Condition 16(h), he suggested that the common landscape areas, the riparian corridor, swales and parking areas will be maintained consistent with the landscaping plans by the Association. Commissioner Gault amended his motion to include the above modification. Motion passed unanimously.

2. **ZONING UNIT, ZU-2189 – MERCY HOUSING** – Petition to reclassify from the R-S-D-35 (Suburban Residence) and R-1 (Single Family Residence) Districts to PD (Planned Development) District, to allow construction of 83 one-bedroom and 1 two-bedroom senior apartments with 52 parking spaces (eight for guests), located at 16438 and 16450 Kent Avenue, Ashland area of unincorporated Alameda County, bearing Assessor's Parcel Number: 080B-0300-023-00 and -022-01. (Continued from January 18, 2005).

Mr. Orduna presented the staff report and explained in detail responses to the Commission's six concerns as presented at the prior hearing on this matter. The Chair announced receipt of a letter from the Parks, Recreation and Historical Commission (PRHC); a discussion followed regarding their recommendation.

Public testimony was called for. Randi Gerson, applicant, Mercy Housing representative, using the document reader, outlined all of their community meetings, concerns raised including security, visual privacy, parking, the number of units, height and setback, and how the project had been refined to meet all of these concerns. She agreed with an annual review for parking adequacy and any historical recommendations by the Commission. She was in contact with the Kuramoto Family and an architect has been retained to work on a historical exhibit for an area in the lobby.

Chris Lamb, Project Architect, using a power point presentation, also explained the project and the above concerns in depth. Some of the mitigations include the placement of the three story building adjacent to the existing apartments and carports; solid fence has been proposed in response to headlights; open fence adjacent to the church and a single entrance on the north on Kent Avenue.

In response to the Chair, Ms. Gerson explained their funding relationships with the County, State and Federal housing agencies. Currently, there is a \$200,000 gap and the fee, as suggested by the Historical Commission, will be added to this gap.

Michelle Starratt, Housing Community Development, explained that funding is restricted for 59 years for low income, 50% below area median income; and occupants will be required to pay only 30% of their income and HUD will subsidize the difference. Commissioner asked if the additional fee will burden the project. Ms. Starratt replied yes.

Diana Krenning, 1046 Elgin Street, said she supported the project.

Public testimony was closed. Commissioner Gault requested clarification on the additional fees.

Lisa Asche, Secretary to the PRHC Commission, explained that the Commission considers the fee as a mitigation fee and not as an impact fee and would be supported by the Montgomery Wards case law. Mr. Bazar added that a precedent has been set as a number of other projects, although not affordable housing, have similar fees attached. Commissioner Hancocks said he did not see the necessity to apply this fee to such a project pointing out that the neighbors considered this site a blight, and the funds would have to come from another public entity such as the Redevelopment Agency, only shifting the resources from different accounts. Commissioner Kirby said he would support the fee if it was equitable with other projects. Mr. Bazar pointed out that other affordable housing projects reviewed in the past did not have historical significance, so there was not precedent for this case. Mr. Rodrigo added that Board of Supervisors will likely adopt a statement of overwriting consideration to allow the demolition in any case.

Commissioner Gault made a motion to approve the project per staff recommendation without the historical preservation fee and Commissioner Looney seconded. Motion passed unanimously.

3. **DETERMINATION OF GENERAL PLAN CONFORMANCE - ALAMEDA COUNTY SHERIFF'S DEPARTMENT - ALAMEDA COUNTY LAW ENFORCEMENT COMPLEX (LEC) AND ANIMAL SHELTER.** The project would include the demolition of older unused structures, grading and construction of approximately 202,000 square feet on four levels at the LEC and 12,000 to 15,000 square feet at the Animal Shelter, located at 2100 and 2700 Fairmont Drive, San Leandro area of unincorporated Alameda County, bearing Assessor's Parcel Number: 080A-0153-007-03 and 080A-0153-008-00. (Continued from December 20, 2004 and February 7, 2005).

Mr. Jensen presented the staff report. Commissioner Hancock asked if the new shelter would be expandable over time.

Public testimony was called for. Roger Powell, Project Manager, stated in response to Commissioner Hancock that the structure would be similar to the facility in Dublin and would thus be over-sized to begin with to accommodate future needs, but that there is room at the site for it to be expanded if needed.

Public testimony was closed. Commissioner Gault made a motion to move staff recommendation and Commissioner Hancock seconded. Motion carried 7/0.

4. **NILES CANYON SCENIC CORRIDOR PROTECTION PLAN** - To consider the Protection Plan for the Niles Canyon Road and Paloma Way Scenic Corridor and recommend adoption of the Plan to the Alameda County Board of Supervisors. The Niles Canyon Road and Paloma Way section of State Route 84 is a 7.1-mile long, narrow, two-lane roadway extending from the intersection of State Route 238 (Mission Boulevard) east through a portion of the City of Fremont, the City of Union City and the unincorporated portion of Alameda County to Interstate 680. (Continued from December 6, 2004 and January 18, 2005).

Ms. Asche presented the staff report. At the Chair's request for clarification on the adoption process, she explained that even if the County makes changes, the matter would not be referred back to cities of Union City and Fremont as they have already endorsed the project, because the plan is a compilation of existing policies and programs that would not be changed in the Cities based on a County action in its portion of the project area. In response to the Chair, Ms. Asche explained the relation between the language on Page 30 and ECAP Policy 156. A discussion followed regarding the subcommittee appointment and the related language on Page 7. Regarding the appointment, Commissioner Gault recommended Commissioner Imhof.

No public testimony was submitted. Commissioner Gault made the motion to approve the Protection Plan with modification to the third sentence under Plan Strategy and Implementation, Policy Development 1A by deleting the words "...and shall be appointed by the Board of Supervisors or City Council." Commissioner Kirby seconded. Motion carried unanimously. The Chair made Commissioner Imhof a provisional appointee to the subcommittee. He would follow this in writing.

6. **HOUSING ELEMENT IMPLEMENTATION PROGRAM** – Modifications to the Zoning Ordinance and Specific Plans necessary to comply with provisions of the Alameda County Housing Element, adopted by the County Board of Supervisors in October of 2003 and certified by the State Department of Housing and Community Development in January of 2004. Said modifications are as follows:

- a. Modify provisions of the R-S (Residential Suburban), R-3 (Four Family Dwelling) and R-4 (Multiple Residence) zoning districts to generally require new developments to provide a minimum of 80% of the maximum number of dwelling units currently allowed in those districts;
- b. Modify provisions to the ACBD and CVCBD specific plans so that the allowed building heights of properties formerly designated as C-1 (Retail Business) and C-2 (General Commercial) zoning districts are not subject to reduction by site development review.

Ms. Rivera presented the staff report outlining the tentative timetable. Language has been changed in the R-S, R-3 and R-4 Districts to reflect the 80% minimum density with examples. Commissioner Hancock requested clarification on the language for Cumulative Zoning, non-conforming units and discussed concerns raised on 'slum zoning'. Commissioner Kirby stated his concern for using variances as a solution. A discussion followed regarding these issues including variances, SDRs and grandfathered units. Mr. Buckley explained that the intent is to achieve affordable housing goals as mandated by the State and adopted by the County in its Housing Element. In reference to the non-conforming issue, this change could be effective with new developments, perhaps as a grandfathered clause. Ms. Rivera suggested that the 80% minimum density could be for new developments as of the effective date. Mr. Kirby asked how additions/secondary units would be considered. Ms. Rivera replied that the minimum density would not be applied to these and in response to the Chair, confirmed that examples were not included in the Ordinance.

No public testimony was submitted. Ms. Rivera presented the section of the staff report regarding building height limitations. The Chair recommended replacing the words "...as noted above..." with the actual Ordinance section. A discussion followed regarding heights for mixed use projects and a grandfather clause.

No public testimony was submitted. Commissioner Kirby made the motion to move staff recommendation for minimum density and height limitations with modifications to grandfathered units and the above modification. Commissioner Gault seconded the motion, which carried 7/0.

STAFF COMMENTS & CORRESPONDENCE: Mr. Buckley announced that Code Enforcement Manager, Tona Henninger, will be providing a summary of actions for the year 2004 and quarterly updates for this year starting at the next meeting.

Mr. Bazar thanked the Commissioners for their presence on the previous Friday for the dedication ceremony of the new meeting room.

CHAIR'S REPORT: The Chair reminded the Commission to submit vacation plans to allow time to revise the meeting calendar during the summer months. He announced that a scoping/workshop on the Transportation Circulation Element will be held by the end of March-April.

COMMISSION ANNOUNCEMENTS, COMMENTS AND REPORTS:

Commissioner Gault announced that he has been in discussion with the Sheriff Department for a 2-3 hour tour of Santa Rita Jail with the Board of Supervisors. He requested date and time recommendations adding that it would be a morning tour. The Chair suggested that the Commissioners email/call Commissioner Gault with their suggestions on a date. Commissioner Kirby suggested the morning of March 21st, the next hearing date and Friday, March 25th.

Commissioner Imhof requested an up-date on the landscaping plans for Stanley Boulevard. Mr. Buckley replied that contact has been made with Vulcan to set up a meeting.

ADJOURNMENT: There being no further business, Commissioner Imhof moved to adjourn the meeting. Commissioner Gault seconded the motion. The motion was carried 7/0.

The Chair announced a 10 minutes recess.

PD District Review Committee

Time: Set Matter at 4:00 p.m. (this item will not be heard prior to this time) or Upon Recess of Regular Meeting

- A. Call to Order/Roll Call
- B. Announcements by the Chair – The Chair announced that this committee had been formed after the December meeting following generalized complaints/concerns regarding the County’s use of PD zoning.
- C. Open Forum - No one requested to be heard under open forum.
- D. Regular Calendar
 - 1. **REVIEW OF PLANNED DEVELOPMENT (PD) DISTRICTS**
Review of County use of the PD Zoning District, comparison with use of same by other representative jurisdictions, and recommendations for possible modifications to the PD Zoning District regulations based on results of research.

Ms. Urzua presented the staff report. No public testimony was submitted. Commissioner Hancocks felt that the concerns raised leads to the need to have a minimum parcel size for different types of PDs. Commissioner Kirby said his concern was how the number of units is calculated. Mr. Orduna explained procedures followed by other jurisdictions and discussed the public benefit. Commissioner Kirby felt that the entitlement of the number of units be established by the underlying zoning districts and any additional units be

based on findings for public benefit. Commissioners Looney and Gault concurred. A lengthy discussion followed regarding PDs, Specific Plans, public benefit and land-use benefit, Cluster Permit, impact fees and density bonus programs. Mr. Bazar felt that specificity was needed. Commissioner Hancock requested copies of the Cluster Permit ordinance for the Commission.

Public testimony was opened. Howard Beckman, a San Lorenzo resident, concurred with Commissioners Hancock and Kirby.

Public testimony was closed. The following actions were taken on the five options:

Option #1: Commissioner Kirby recommended retaining the option.

Option #2: No further discussion is needed.

Option #3: To incorporate with Option #1.

Option #4: Continued for further discussion.

Option #5: Continued for further discussion. The Chair requested information on the existing law regarding clustering.

The matter was continued to the next Committee hearing.

Commissioner Looney thanked staff for the copy of the Commission roster and requested a copy of a staff list with phone numbers.

E. **Adjournment** - Commissioner Kirby moved to adjourn the meeting. Commissioner Imhof seconded the motion. The motion carried 7/0.

Condominium Conversion Guidelines Review Committee

Time: 5:00 p.m. Or Upon Recess of PD Review Committee Meeting

A. **Call to Order/Roll Call**

B. **Announcements by the Chair** - The Chair pointed out that at the last Committee meeting, Commissioners Kirby and Hancock were not available and this was the first meeting for Commissioners Badner and Looney. In response to specific questions raised at the last meeting, Ms. Margaret Elliot and Theresa Johnson, were available today

C. **Open Forum** – No one requested to be heard under open forum.

D. **Regular Calendar**

1. **PROPOSED MODIFICATIONS TO CONDOMINIUM CONVERSION GUIDELINES** – A Committee of the Whole established by the Chair of the Planning Commission at the hearing on September 20, 2004, to discuss the policy and practice under the existing Condominium Conversion Guidelines adopted in 1979, and possible changes to those guidelines.

Ms. Elliot submitted and discussed the Building Departments requirements for Condominium Conversions. Prescriptive measures were a better option. Commissioner Gault said his concern was safety and bringing structures up to code. Commissioner Imhof felt that it was not only maintenance of the building but conversion of building with ‘bad’ design. Commissioner Looney asked if the Planning Department had a conversion over-lay check-list for the builders. Mr. Buckley replied that the Department had the Guidelines. Commissioner Kirby suggested a check list and, in reference to individual ownership, asked how occupancy separation could be assessed. A discussion followed. Ms. Elliot agreed that they could prepare a check list and perhaps, when needed, do a site visit to provide answers to the Commission’s building code concerns.

Ms. Johnson discussed the Fire Department’s requirements. A fire inspection is done prior to conversion or recordation of the Final Map. Annual inspections are required for apartments but not individual units. One problem upon conversion is the maintenance of the one fire control system. The CC&R has to reflect that it will be maintained by the home association property management. If the use does not change, individual sprinkler system is not required. Commissioner Kirby suggested a licensed contractor. Regarding #18 Guideline, Ms. Johnson recommended replacing the word ‘should’ with ‘shall’. She could also provide a similar check list. Commissioner Looney suggested replacing all ‘shoulds’ to ‘shall’. Commissioner Imhof recommended that if the number of units exceed 15-20, the Commission should visit the common areas during the field trips.

Public testimony was called for. Steve Manetty said he was in the process of a conversion and needed guidance. After reading the Guidelines, he thought that a structural inspection was needed. He felt that guideline clarification was needed. Some of the benefits to a conversion were individual ownership of affordable/low cost housing and improvement to the area. A guideline was needed for the Cherryland/Ashland area, especially relating to parking and also for other high density areas.

Public testimony was closed. The Chair pointed out the changes/discussions recommended at the last meeting as reflected in the staff report. Conditions #18 and 19 be modified to read, “An approved inspection report by a licensed engineer/ contractor from the Alameda County Fire Department and Building Department shall be submitted with an application for Tentative Map approval”; #19 to read, “Approvals for #18 shall be based on requirement list, procedures and check list prepared by each department and approved by the Planning Commission; and an additional #22 to read, “Access to common areas shall be included in Planning Commission agendas for all condo conversion field trips.” Commissioner Imhof made the motion to adopt the above

modifications and be placed on the April meeting. Commissioner Kirby seconded the motion, which carried unanimously. Commissioner Kirby

E. **Adjournment** - Commissioner Kirby moved to adjourn the meeting. Commissioner Gault seconded the motion. Motion carried 7/0

CHRIS BAZAR, SECRETARY
COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY